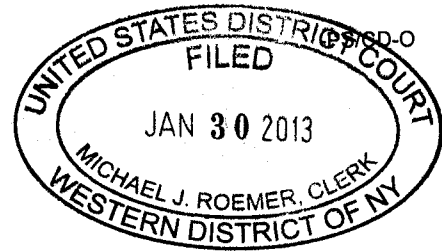


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



LUIS DIAZ,

Petitioner,

-v-

J.T. SHARTIE,

Respondent.

12-CV-1226C
ORDER

Petitioner filed this action using a form petition for cases brought under 28 U.S.C. § 2241. The case was docketed as a § 2241 petition for writ of habeas corpus and the case was randomly assigned to the undersigned by the Clerk of the Court;

A review of the petition indicates that this action should have been brought as a motion to vacate under 28 U.S.C. § 2255 as plaintiff is challenging his sentencing in criminal case number 00-CR-6064 assigned to the Honorable Charles J. Siragusa;

The Court finds that reassignment of this action to the Honorable Charles J. Siragusa is necessary because the instant action is a challenge to the criminal proceeding.

IT HEREBY IS ORDERED, that this action be reassigned to the Honorable Charles J. Siragusa and related to criminal case 00-CR-6064CJS;

FURTHER, that the petition filed in this case be docketed as a motion for relief under 28 U.S.C. § 2255 and filed nunc pro tunc in case number 00-CR-6064CJS;

FURTHER, that the Clerk of the Court is to make the necessary docket revisions to reflect that the petitioner's action is reclassified as an action filed under § 2255;

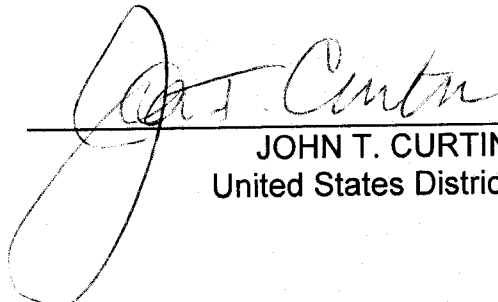
FURTHER, that the caption be revised to be indicate that the sole respondent in this action is the United States of America; and

FURTHER, that the Clerk of the Court is directed to reassign the case as indicated.

SO ORDERED.

DATED:

1/23/2013, 2012
Buffalo, New York



JOHN T. CURTIN
United States District Judge